

****NOT A FINAL BILL****

This draft legislation is subject to edits by the Criminal Justice Oversight Council. The presiding officer will announce opportunities for public comment on this draft.

A BILL AMENDING SECTION 46-1-202, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-1-202 (18) MCA, is amended to read:

“(18) (a) "Persistent felony offender" means an offender ~~who has previously been convicted of two separate felonies;~~ and

(i) ~~who is presently being sentenced for a third felony committed on a different occasion than either of the first two felonies;~~ and

(A) ~~At at least one of the three felonies must be~~ is a sexual offense or a violent offense as those terms are defined in 46-23-502; or

(B) is on felony probation or felony parole, unless the third offense is criminal possession of dangerous drugs under 45-9-102 or failure to register pursuant to Title 46, chapter 23.

(b) An offender is considered to have previously been convicted of two separate felonies if:

~~(a)~~ (i) ~~the two previous felonies were for offenses that were committed in this state or any other jurisdiction for which a sentence of imprisonment in excess of 1 year could have been imposed;~~

~~(b)~~ (ii) ~~less than 5 years have elapsed between the commission of the present offense and either:~~

(i) (A) ~~the most recent of the two felony convictions;~~ or

(ii) (B) ~~the offender's release on parole or otherwise from prison or other commitment imposed as a result of a previous felony conviction; and~~

(c) (iii) ~~the offender has not been pardoned on the ground of innocence and the conviction has not been set aside at a postconviction hearing.~~